

REMARKS

The Office Action of March 25, 2005, has been considered by the Applicants. Claims 1-4, 7-9, 11, 13, 14, and 16 have been amended. Claims 5, 6, 10, 15, and 18 have been cancelled. New claims 19 and 20 have been added. Claims 1-4, 7-9, 11-14, 16, 17, 19, and 20 are pending. Reconsideration of the Application is requested.

Applicants acknowledge the Examiner's allowance of claim 6 if rewritten into independent form. Please note that the allowed subject matter of claim 6 has been incorporated into claim 1.

Claims 1 and 8 were rejected under 35 U.S.C. 112, second paragraph, for failing to distinctly claim the subject matter regarded as the invention. Applicants traverse the rejection.

In rejecting claims 1 and 8, the Examiner wrote:

A layer has a top bottom and a bottom layer or is it two layers? Are the layers in contact? The oxidative inhibitor is inhibiting the oxidation of the resin binder but the specification does not teach any oxidation of the resin.

The specification clearly teaches that the charge transport layer comprises a top layer and bottom layer; see paragraphs [0001], [0057], and [0058]. In this regard, the charge transport layer is one layer in that it has the function of transporting charges, but is two layers in that each layer has different components. Claims 1 and 8 have been amended to clarify the location and the components of the top layer and bottom layer and to recite a "dual charge transport layer." In regards to the components of the top and bottom layers, please note that paragraph [0059] of the specification teaches that the top layer and bottom layer may have different charge transport compounds. Claims 2-4, 7, 11, 13, and 16 have also been amended to recite a "dual charge transport layer"; this particular change in these claims was made solely to preserve antecedent basis and by itself does not change the scope of these claims. Claims 2, 3, 9, 13, 14, 19, and 20 now address the specific charge transport compound in the top layer and bottom layer as well. The specification also teaches the problems the oxidative inhibitor corrects; see paragraphs [0007] through [0009]. Applicants request withdrawal of the rejections based on 35 U.S.C. 112, second paragraph.

Claim 18 was rejected in paragraph 3 of the Office Action. Claim 18 has been cancelled, so these rejections are moot.

Claims 1, 8, and 13 were rejected under 35 U.S.C. 102(b) as anticipated by Osawa (US 5,308,727). Applicants traverse the rejection.

The amended claims now recite the application of a specific oxidative inhibitor, pentaerythritol tetrakis[3,5-di-tert-butyl-4-hydroxyhydrocinnamate]. Applicants note that this is the same chemical compound as listed in allowed claim 6 as taught in the specification near the end of paragraph [0073] and does not change the scope of allowed claim 6. Osawa does not teach this inhibitor and therefore does not anticipate the instant claims. Withdrawal of the rejections under 102(b) is requested.

Claims 1-5 and 7-18 were rejected under 35 U.S.C. 103(a) as unpatentable over Tong, Horgan, and Yu. Applicants note that the Examiner listed two applications by Horgan and are replying under the belief that the Examiner was referring to Application 10/320,808 in this rejection. Applicants traverse the rejection.

The amended claims now recite the application of a specific oxidative inhibitor, pentaerythritol tetrakis[3,5-di-tert-butyl-4-hydroxyhydrocinnamate]. Tong, Horgan, and Yu do not teach this inhibitor and therefore do not render obvious the instant claims. Claims 5, 10, and 15, which claim hindered phenols, have been cancelled as well. Withdrawal of the rejections under 103(a) is requested.

Claims 1-18 were provisionally rejected under the judicially created doctrine of double patenting over claim 20 of copending application 10/737,545. Applicants traverse the rejection.

The instant claims do not claim common subject matter with claim 20. Claim 20 is narrower than the instant claims. It contains additional limitations to the composition of the charge transport layer such as specific hole transport compounds, specific composition of the charge transport layer, and specific resin binders. Claims corresponding to those in the instant application could not be presented in 10/737,545 because that application makes no teachings of specific antioxidants. Therefore, the instant claims may be distinguished from claim 20. Applicants request withdrawal of the rejection based on double patenting.

Applicants note that paragraphs [0068] and [0073] of the specification were amended solely to correct typographical errors. These amendments were made to clarify the meaning of the paragraphs, not for reasons of patentability. Claims 11 and 16 were amended to correct the spelling of the word "ratio." This amendment did not change the scope of the claims or introduce new matter.

CONCLUSION

For the reasons above, Applicants submit that all pending claims (1-4, 7-9, 11-14, 16, 17, 19, and 20) are in condition for allowance. Withdrawal of the rejections and issuance of a Notice of Allowance is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to call Richard M. Klein, at telephone number 216-861-5582, Cleveland, OH.

It is believed that no fee is due in conjunction with this response. If, however, it is determined that fees are due, authorization is hereby given for deduction of those fees, other than the issue fees, from Deposit Account No. 24-0037.

Respectfully submitted,
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